

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:18-cv-01213-APM**

HUSCH BLACKWELL LLP v. UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
Assigned to: Judge Amit P. Mehta
Cause: 05:552 Freedom of Information Act

Date Filed: 05/23/2018
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

HUSCH BLACKWELL LLP

represented by **Matthew Diehr**
HUSCH BLACKWELL, LLP
190 Carondelet Plaza
Suite 600
St. Louis, MO 63105
(314) 480-1916
Email: Matthew.Diehr@huschblackwell.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Catherine M. Dickenson
HUSCH BLACKWELL, LLP
190 Carondelet Plaza
Suite 600
St. Louis, MO 63105
(314) 480-1929
PRO HAC VICE
ATTORNEY TO BE NOTICED

Natalie R Holden
HUSCH BLACKWELL, LLP
4801 Main Street
Suite 1000
Kansas City, MO 64112
(816) 983-8340
Email: natalie.holden@huschblackwell.com
ATTORNEY TO BE NOTICED

Kyle J. Gilster
HUSCH BLACKWELL, LLP
750 17th Street, NW
Suite 900
Washington, DC 20006
(202) 378-2303
Fax: (202) 378-2319
Email: kyle.gilster@huschblackwell.com
ATTORNEY TO BE NOTICED

V.

Defendant

**UNITED STATES
ENVIRONMENTAL PROTECTION
AGENCY**

represented by **Paul Cirino**
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-2529
Fax: (202) 252-2599
Email: paul.cirino@usdoj.gov
LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Joshua M. Kolsky

U.S. ATTORNEY'S OFFICE FOR THE DISTRICT OF COLUMBIA

555 Fourth Street, NW

Room 5241

Washington, DC 20540

(202) 252-2541

Fax: (202) 252-2599

Email: joshua.kolsky@usdoj.gov

TERMINATED: 12/26/2018

Date Filed	#	Docket Text
05/23/2018	<u>1</u>	COMPLAINT against UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Filing fee \$ 400 receipt number 0090-5497896) filed by HUSCH BLACKWELL LLP. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons, # <u>3</u> Exhibit 1, # <u>4</u> Exhibit 2, # <u>5</u> Exhibit 3, # <u>6</u> Exhibit 4, # <u>7</u> Exhibit 5, # <u>8</u> Exhibit 6, # <u>9</u> Exhibit 7, # <u>10</u> Exhibit 8, # <u>11</u> Exhibit 9)(Gilster, Kyle) (Entered: 05/23/2018)
05/23/2018	<u>2</u>	Corporate Disclosure Statement by HUSCH BLACKWELL LLP. (Gilster, Kyle) (Entered: 05/23/2018)
05/23/2018		Case Assigned to Judge Amit P. Mehta. (zmd) (Entered: 05/25/2018)
05/24/2018	<u>3</u>	ERRATA to Correct by HUSCH BLACKWELL LLP <u>1</u> Complaint, filed by HUSCH BLACKWELL LLP. (Attachments: # <u>1</u> Revised Pg 1 of Complaint, # <u>2</u> Summons U.S. Attorney General, # <u>3</u> Summons U.S. Attorney)(Gilster, Kyle) (Entered: 05/24/2018)
05/29/2018	<u>4</u>	SUMMONS (3) Issued Electronically as to UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Notice and Consent) (zmd) (Entered: 05/29/2018)
06/07/2018	<u>5</u>	NOTICE of Appearance by Matthew Diehr on behalf of HUSCH BLACKWELL LLP (Diehr, Matthew) (Entered: 06/07/2018)
06/14/2018	<u>6</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. UNITED STATES ENVIRONMENTAL PROTECTION AGENCY served on 6/11/2018 (Diehr, Matthew) Modified to correct party served on 7/3/2018 (ztd). (Entered: 06/14/2018)
06/14/2018	<u>7</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 6/8/2018. Answer due for ALL FEDERAL DEFENDANTS by 7/8/2018. (Diehr, Matthew) (Entered: 06/14/2018)
06/14/2018	<u>8</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 06/06/2018. (Diehr, Matthew) (Entered: 06/14/2018)
07/09/2018	<u>9</u>	NOTICE of Appearance by Joshua M. Kolsky on behalf of UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Kolsky, Joshua) (Entered: 07/09/2018)
07/09/2018	<u>10</u>	ANSWER to Complaint by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.(Kolsky, Joshua) (Entered: 07/09/2018)
07/10/2018		MINUTE ORDER. Both a Complaint and an Answer are now before the court in this FOIA case. It is hereby ordered that the parties shall meet and confer and file a Joint Status Report on or before July 24, 2018. The Joint Status Report shall include: (1) the status of Plaintiff's FOIA request; (2) the anticipated number of documents responsive to Plaintiff's FOIA request; (3) the anticipated date(s) for release of the documents requested by Plaintiff; (4) whether a motion for stay is likely under Open America v. Watergate Special Prosecution Force, 547 F.2d 605 (D.C. Cir. 1976); and (5) whether the parties anticipate summary judgment briefing and, if so, a proposed briefing

		schedule. Signed by Judge Amit P. Mehta on 7/10/2017. (lcapm2) (Entered: 07/10/2018)
07/10/2018		Set/Reset Deadlines: Joint Status Report due by 7/24/2018. (zjd) (Entered: 07/11/2018)
07/24/2018	<u>11</u>	Joint STATUS REPORT by HUSCH BLACKWELL LLP. (Diehr, Matthew) (Entered: 07/24/2018)
07/26/2018		MINUTE ORDER. In light of the parties' <u>11</u> Joint Status Report, the parties shall file an additional Joint Status Report on or before August 14, 2018, in which the parties advise the court whether further litigation will be required in this matter and, if so, proposes a summary judgment briefing schedule. Signed by Judge Amit P. Mehta on 7/26/2018. (lcapm2) (Entered: 07/26/2018)
07/26/2018		Set/Reset Deadlines: Joint Status Report due by 8/14/2018. (zjd) (Entered: 07/27/2018)
08/14/2018	<u>12</u>	Joint STATUS REPORT by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Kolsky, Joshua) (Entered: 08/14/2018)
08/17/2018		MINUTE ORDER. In light of the parties' <u>12</u> Joint Status Report, the parties shall file an additional Joint Status Report on or before September 14, 2018, that advises the court whether further litigation will be required and, if so, proposes a summary judgment briefing schedule. Signed by Judge Amit P. Mehta on 8/17/2018. (lcapm2) (Entered: 08/17/2018)
08/17/2018		Set/Reset Deadlines: Joint Status Report due by 9/14/2018. (zjd) (Entered: 08/20/2018)
09/14/2018	<u>13</u>	Joint STATUS REPORT by HUSCH BLACKWELL LLP. (Diehr, Matthew) (Entered: 09/14/2018)
09/17/2018		MINUTE ORDER. In light of the parties' <u>13</u> Joint Status Report, the parties shall file an additional Joint Status Report on or before October 26, 2018, in which the parties advise the court whether further litigation will be required in this matter and, if so, proposes a summary judgment briefing schedule. Signed by Judge Amit P. Mehta on 9/17/2018. (Entered: 09/17/2018)
09/17/2018		Set/Reset Deadlines: Joint Status Report due by 10/26/2018. (zjd) (Entered: 09/18/2018)
10/26/2018	<u>14</u>	Joint STATUS REPORT by HUSCH BLACKWELL LLP. (Diehr, Matthew) (Entered: 10/26/2018)
10/26/2018		MINUTE ORDER. No later than November 26, 2018, the parties shall submit an additional Joint Status Report updating the court on whether summary judgment briefing will be required in this case and, if so, proposing a briefing schedule. Signed by Judge Amit P. Mehta on 10/26/2018. (lcapm2) (Entered: 10/26/2018)
10/26/2018		Set/Reset Deadlines: Joint Status Report due by 11/26/2018. (zjd) (Entered: 10/29/2018)
10/29/2018	<u>15</u>	NOTICE of Appearance by Natalie R Holden on behalf of HUSCH BLACKWELL LLP (Holden, Natalie) (Entered: 10/29/2018)
11/26/2018	<u>16</u>	Joint STATUS REPORT by HUSCH BLACKWELL LLP. (Holden, Natalie) (Entered: 11/26/2018)
11/27/2018		MINUTE ORDER. No later than December 21, 2018, the parties shall submit an additional Joint Status Report updating the court on whether summary judgment briefing will be required in this case and, if so, proposing a briefing schedule. Signed by Judge Amit P. Mehta on 11/27/2018. (lcapm2) (Entered: 11/27/2018)
11/27/2018		Set/Reset Deadlines: Joint Status Report due by 12/21/2018. (zjd) (Entered: 11/27/2018)
11/28/2018		NOTICE OF ERROR re <u>16</u> Status Report; emailed to natalie.holden@huschblackwell.com, cc'd 7 associated attorneys -- The PDF file you docketed contained errors: 1. Invalid attorney signature, 2. DO NOT REFILE--signature on pleadings should match login/password of attorney efilng (zjf,) (Entered: 11/28/2018)

12/21/2018	<u>17</u>	Joint STATUS REPORT by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Attachments: # <u>1</u> Text of Proposed Order)(Kolsky, Joshua) (Entered: 12/21/2018)
12/26/2018	<u>18</u>	NOTICE OF SUBSTITUTION OF COUNSEL by Paul Cirino on behalf of UNITED STATES ENVIRONMENTAL PROTECTION AGENCY Substituting for attorney Joshua M. Kolsky (Cirino, Paul) (Entered: 12/26/2018)
12/27/2018	<u>19</u>	ORDER: Having considered <u>17</u> the Joint Status Report, the court sets the following schedule for further proceedings in this matter: Defendant's Motion for Summary Judgment shall be filed on or before February 22, 2019; Plaintiff's Cross-Motion for Summary Judgment and Opposition to Defendant's Motion for Summary Judgment shall be filed on or before March 22, 2019; Defendant's Reply and Opposition to Plaintiff's Cross-Motion for Summary Judgment shall be filed on or before April 19, 2019; and Plaintiff's Reply shall be filed on or before May 10, 2019. See attached Order for additional details. Signed by Judge Amit P. Mehta on 12/27/2018. (lcapm3) (Entered: 12/27/2018)
12/27/2018		Set/Reset Deadlines: Defendant's Motion for Summary Judgment due by 2/22/2019. Plaintiff's Cross-Motion and Opposition due by 3/22/2019. Defendant's Reply and Opposition due by 4/19/2019. Plaintiff's Reply due by 5/10/2019. (zjd) (Entered: 12/28/2018)
01/31/2019	<u>20</u>	Unopposed MOTION to Extend Deadlines by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Attachments: # <u>1</u> Text of Proposed Order)(Cirino, Paul) (Entered: 01/31/2019)
02/01/2019		MINUTE ORDER granting <u>20</u> Motion to Extend Deadlines. The summary judgment briefing schedule, as set forth ECF <u>19</u> , is amended as follows: Defendant's Motion for Summary Judgment shall be filed on or before April 2, 2019. Plaintiff's Cross-Motion for Summary Judgment and Opposition to Defendant's Motion for Summary Judgment shall be filed on or before May 2, 2019. Defendant's Reply and Opposition to Plaintiffs Cross-Motion for Summary Judgment shall be filed on or before May 30, 2019. Plaintiff's Reply shall be filed on or before June 20, 2019. Signed by Judge Amit P. Mehta on 2/1/2019 (lcapm2) (Entered: 02/01/2019)
02/01/2019		Set/Reset Deadlines: Defendant's Motion for Summary Judgment due by 4/2/2019. Plaintiff's Opposition and Cross-Motion due by 5/2/2019. Defendant's Reply and Opposition due by 5/30/2019. Plaintiff's Reply due by 6/20/2019. (zjd) (Entered: 02/06/2019)
02/01/2019		Set/Reset Deadlines: Plaintiff's Cross Motion due by 5/2/2019. Defendant's Opposition due by 5/30/2019. Plaintiff's Reply due by 6/20/2019. (zjd) (Entered: 02/14/2019)
03/27/2019	<u>21</u>	Unopposed MOTION to Extend Deadlines by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Attachments: # <u>1</u> Text of Proposed Order)(Cirino, Paul) Modified event on 3/28/2019 (znmw). (Entered: 03/27/2019)
03/29/2019		MINUTE ORDER granting <u>21</u> Motion for Extension of Time. The summary judgment briefing schedule, as set forth in ECF <u>19</u> , is amended as follows: EPA's Motion for Summary Judgment shall be filed on or before April 16, 2019; Plaintiff's Cross-Motion for Summary Judgment and Opposition to Defendant's Motion for Summary Judgment shall be filed on or before May 16, 2019; EPA's Reply and Opposition to Plaintiffs Cross-Motion for Summary Judgment shall be filed on or before June 13, 2019; Plaintiff's Reply shall be filed on or before July 12, 2019. Signed by Judge Amit P. Mehta on 3/29/2019. (lcapm2) (Entered: 03/29/2019)
04/16/2019	<u>22</u>	MOTION for Summary Judgment by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Statement of Facts, # <u>3</u> Declaration of Earl Ingram, Jr., # <u>4</u> Exhibit 1 (Vaughn Index), # <u>5</u> Exhibit 2 (EPA Letter 10/30/2017), # <u>6</u> Exhibit 3 (Correspondence), # <u>7</u> Exhibit 4 (Plaintiff's FOIA Appeal 3/5/2018)), # <u>8</u> Exhibit 5 (EPA FOIA Appeal Determination 4/20/2018), # <u>9</u> Exhibit 6 (EPA Final Response Letter 7/3/2018), # <u>10</u> Text of Proposed Order)(Cirino, Paul) (Entered: 04/16/2019)
04/29/2019	<u>23</u>	Unopposed MOTION for Extension of Time to <i>extend Deadlines</i> by HUSCH BLACKWELL LLP (Attachments: # <u>1</u> Text of Proposed Order)(Holden, Natalie) (Entered: 04/29/2019)

04/30/2019		MINUTE ORDER granting <u>23</u> Motion for Extension of Time. The summary judgment briefing schedule, as set forth in ECF <u>19</u> , and amended by the Minute Order of March 29, 2019, is hereby further amended as follows: Plaintiff's Cross–Motion for Summary Judgment and Opposition to Defendant's Motion for Summary Judgment shall be filed on or before June 17, 2019. Defendant's Reply and Opposition to Plaintiff's Cross–Motion for Summary Judgment shall be filed on or before July 23, 2019. Plaintiff's Reply shall be filed on or before August 15, 2019. Signed by Judge Amit P. Mehta on 4/30/2019. (lcapm2) (Entered: 04/30/2019)
04/30/2019		Set/Reset Deadlines: Plaintiff's Cross–Motion and Opposition due by 6/17/2019. Defendant's Opposition and Reply due by 7/23/2019. Plaintiff's Reply due by 8/15/2019. (zjd) (Entered: 04/30/2019)
06/17/2019	<u>24</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name– Catherine M. Dickenson, :Firm– Husch Blackwell LLP, :Address– 190 Carondelet Plaza, Suite 600. Phone No. – 314–480–1500. Fax No. – 314–480–1505 Filing fee \$ 100, receipt number 0090–6193254. Fee Status: Fee Paid. by HUSCH BLACKWELL LLP (Attachments: # <u>1</u> Exhibit Exhibit 1)(Holden, Natalie) (Entered: 06/17/2019)
06/17/2019	<u>25</u>	RESPONSE re <u>22</u> MOTION for Summary Judgment filed by HUSCH BLACKWELL LLP. (Holden, Natalie) (Entered: 06/17/2019)
06/17/2019	<u>26</u>	Cross MOTION for Summary Judgment by HUSCH BLACKWELL LLP (Holden, Natalie) (Additional attachment(s) added on 6/18/2019: # <u>1</u> Memorandum in Support, # <u>2</u> Statement of Facts Undisputed, # <u>3</u> Text of Proposed Order) (zjf). (Entered: 06/17/2019)
06/17/2019	<u>27</u>	ENTERED IN ERROR.....MEMORANDUM re <u>26</u> Cross MOTION for Summary Judgment filed by HUSCH BLACKWELL LLP, <u>25</u> Response to motion filed by HUSCH BLACKWELL LLP by HUSCH BLACKWELL LLP. (Holden, Natalie) Modified on 6/18/2019 (zjf). (Entered: 06/17/2019)
06/17/2019	<u>28</u>	ENTERED IN ERROR.....NOTICE of <i>Filing of Statement of Undisputed Material Facts</i> by HUSCH BLACKWELL LLP re <u>27</u> Memorandum (Holden, Natalie) Modified on 6/18/2019 (zjf). (Entered: 06/17/2019)
06/17/2019	<u>29</u>	RESPONSE re <u>22</u> MOTION for Summary Judgment <i>re Defendant's Statement of Undisputed Material Facts</i> filed by HUSCH BLACKWELL LLP. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8, # <u>9</u> Exhibit 9, # <u>10</u> Exhibit 10, # <u>11</u> Exhibit 11, # <u>12</u> Exhibit 12, # <u>13</u> Exhibit 13, # <u>14</u> Exhibit 14, # <u>15</u> Exhibit 15, # <u>16</u> Exhibit 16)(Holden, Natalie) (Entered: 06/17/2019)
06/17/2019	<u>30</u>	ENTERED IN ERROR.....NOTICE of Proposed Order by HUSCH BLACKWELL LLP re <u>26</u> Cross MOTION for Summary Judgment , <u>29</u> Response to Document, <u>27</u> Memorandum, <u>25</u> Response to motion, <u>28</u> Notice (Other) (Holden, Natalie) Modified on 6/18/2019 (zjf). (Entered: 06/17/2019)
06/17/2019		MINUTE ORDER granting <u>24</u> Motion for Leave to Appear Pro Hac Vice. Attorney Catherine M. Dickenson is hereby admitted pro hac vice to appear in this matter. Signed by Judge Amit P. Mehta on 6/17/2019. (lcapm2) (Entered: 06/17/2019)
06/18/2019		NOTICE OF CORRECTED DOCKET ENTRY: Document Nos. re <u>27</u> Memorandum, <u>30</u> Notice of Proposed Order, <u>28</u> Notice (Other) was entered in error and added to entry <u>26</u> Cross Motion for Summary Judgment as one complete filing per our ECF Instructions. (jf) (Entered: 06/18/2019)
07/23/2019	<u>31</u>	Memorandum in opposition to re <u>26</u> Cross MOTION for Summary Judgment filed by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Attachments: # <u>1</u> Response to Plaintiff's Statement of Undisputed Material Facts, # <u>2</u> Text of Proposed Order)(Cirino, Paul) (Entered: 07/23/2019)
07/23/2019	<u>32</u>	REPLY to opposition to motion re <u>22</u> MOTION for Summary Judgment (<i>Duplicate Entry</i>) filed by UNITED STATES ENVIRONMENTAL PROTECTION AGENCY. (Attachments: # <u>1</u> Response to Plaintiff's Statement of Undisputed Material Facts, # <u>2</u> Text of Proposed Order)(Cirino, Paul) (Entered: 07/23/2019)